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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,357	03/18/2004	Ernest Rivellino	7081-4-1	5840

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EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/803,357

Applicant(s)

RIVELLINO ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This is the first office action for application number 10/803,357, Device for Hanging Articles, filed on March 18, 2004.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fastening means having adhesive characteristics, in claim 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 3 is objected to because of the following informality: in line 1 the recitation of "wherein the bracket" should be deleted and --further-- should be inserted in place thereof. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the at least one end portion" bridging lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "at least one first aperture," in line 2 of the claim is intended to refer to the original recitation of the term "at least one first aperture," in line 2 of claim 1. Claim 4 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "at least one protrusion" bridging lines 3 and 4 in the claim is intended to refer to the original recitation of the term "at least one protrusion," in line 2 of the claim. Applicant is suggested to change the latter recitation to --the at least one protrusion--.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,146,204 to Thalenfeld. Thalenfeld discloses a bracket for hanging articles, comprising: a body portion (15, 15a) having at least one side wall and at least one first aperture, wherein the body portion is capable of being attached to a surface; a swingable hook (16) having a hooking portion (26), at least one side portion (27, 28) and at least one engaging portion (25), wherein the at least one engaging portion is attached to the at least one side portion; wherein at least one first aperture (24) of the body portion engages the at least one engaging portion of the swingable hook; wherein the at least one side portion of the hook frictionally engages an inner surface of the at least one side wall such that the swingable hook may be swingably set to a plurality of positions; at least two side walls (17, 18), with each side wall having at least one first aperture; further wherein the swingable hook has at least two side portions and at least two engaging portions, wherein each engaging portion is attached to a separate side portion; wherein each inner surface of the at least two side walls includes at least one protrusion (19a, 19b) extending away from the inner surfaces of the side walls, wherein each side portion of the swingable hook is capable of resting on the at least one protrusion; wherein the body portion is capable of being attached to the surface using a fastening means; and wherein a portion of the hooking portion is angled.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thalenfeld in view of U.S. Patent 4,367,819 to Lewis. Thalenfeld further discloses that the body portion includes a back wall. Thalenfeld discloses the claimed invention except for the limitations of the fastening means having adhesive characteristics and the back wall having at least one aperture. Lewis teaches a bracket (1) for hanging articles, including a body portion, a hook (16), a fastening means (6) having adhesive characteristics; the body portion having a back wall having an aperture (5) in the back wall through back wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the bracket in Thalenfeld to have included the fastening means as taught by Lewis for the purpose of providing a plurality of fastening means for securing the bracket to a variety of supporting surfaces based on the characteristics of the supporting surface.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thalenfeld. Thalenfeld discloses the claimed invention except for the limitation of the first aperture having a circular top portion and a slot. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the first aperture in Thalenfeld to have included a circular top portion and a slot for the purpose of providing a

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more efficient means for attaching the at least one engaging portion of the swingable hook with the aperture.

### ***Allowable Subject Matter***

Claims 9, 11, 12, and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2,723,815 to Browning

U.S. Patent 3,020,013 to Ochin et al.

U.S. Patent 3,226,065 to Smith

U.S. Patent 3,923,278 to Marcil

U.S. Patent 4,039,138 to Einhorn

U.S. Patent 4,335,865 to Cormier

U.S. Patent 4,809,894 to Viio

U.S. Patent 4,821,992 to Johnson

U.S. Patent 5,878,988 to Rakower

U.S. Patent 6,672,551 to Rivellino et al.


Browning, Ochin et al., Smith, Johnson, Rakower, and Rivellino et al. all disclose various types of picture hangers. Marcil discloses a one-piece wall hook structure. Einhorn

discloses a saw tooth hanger. Cormier discloses a curtain rod bracket. Viio discloses a device for detachably connecting objects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

November 23, 2004